

Atty Sanoian, Joanne (for Elisa Ann Skibsrud – Executor – Petitioner)

First Amended First and Final Account and Report of Executrix; Petition for Its Settlement; for Allowance of Attorney and Executrix Ordinary Fees and Extraordinary Fees; for Attorney Fees and Reimbursement of Costs Advanced and for Final Distribution (Prob. C. 1060 et seq, 10951, 10810, 10800, 10900, 10951, 11640)

DOD: 11-7-01		ELISA ANN SKIBRUD, Executor with full IAEA without bond, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
		Account period: 11-8-01 through 6-7-11	<p>1. Probate Code §10257 requires that if personal property is sold on credit, at least 25% of the purchase price shall be paid in cash and the personal representative shall either take the note with a security interest in the property or retain the title until the balance is paid.</p> <p>Petitioner sold one of the assets of the estate (a vehicle) for \$3,000.00 under a promissory note where the buyer was to pay \$400.00/mo until the total amount was paid; however, the buyer disappeared, and a loss of \$3,000.00 on the note is reported.</p> <p><u>Petitioner's declaration explains that the buyer was a friend of the Decedent and the two daughters agreed on the terms of the sale.</u></p> <p><u>However, based on Probate Code §10257, and the creditors to the estate, the Court may not approve this act of Petitioner.</u></p>
Cont. from 092911		Accounting: \$74,922.43	
	Aff.Sub.Wit.	Beginning POH: \$46,147.59	
✓	Verified	Ending POH: \$53,729.04 (Cash)	
✓	Inventory	Executor: \$2,868.89 (Statutory)	
✓	PTC	Executor (XO): \$977.00 (per Local Rule)	
✓	Not.Cred.	Attorney: \$2,868.89 (Statutory)	
✓	Notice of Hrg	Costs: \$395.00 (filing fee)	
✓	Aff.Mail	Pursuant to Revenue and Tax Code §19516, the IRS has priority for all income taxes owed over other claims of the estate. The remaining amount after payment of the expenses of administration (\$46,619.26) should be distributed to the IRS for payment of Decedent's income taxes owed. There is not enough money left to satisfy the creditor's claims and distribution to heirs.	
	Aff.Pub.	If there are remaining assets or should additional assets be discovered, Petitioner requests authorization to satisfy the creditor's claims as filed.	
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
✓	Letters	3-13-02	
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
✓	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
✓	FTB Notice		
		<p><b>Petitioner prays for an Order that:</b></p> <ol style="list-style-type: none"> <li>1) Notice of hearing of this account, report, and petition be given as required by law;</li> <li>2) The court make an order approving allowing and settling the attached account and report of the estate filed; and</li> <li>3) All the acts and proceedings of Petitioner as Executor be confirmed and approved.</li> </ol>	<p>Reviewed by: skc</p> <p>Reviewed on: 11-1-11</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 1 - Skibsrud</p>

**Amended (1) First and Final Account and Report of Administrator and (2) Petition  
for Allowance of Ordinary and Extraordinary Commissions And Fees and for (3)  
Distribution**

<b>DOD: 12-22-06</b>		<b>PUBLIC ADMINISTRATOR</b> is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <b><u>OFF CALENDAR</u></b> <b>Order signed 11-2-11.</b>
		Account period: 6-9-08 through 9-17-10	
		Accounting: \$156,578.98	
		Beginning POH: \$152,700.00	
		Ending POH: \$94,520.15 (cash)	
<b>Cont. from 080111, 092611</b>		Public Administrator (Statutory): \$4,437.37	
	Aff.Sub.Wit.	Attorney (Statutory): \$4,437.37	
✓	Verified	Public Administrator (XO): \$2,036.90 (\$1,000.00 for sale of real property and \$788.90 for sale of personal property per local rules, plus \$248.00 for 1 Deputy hour @ \$96.00/hr and 2 Staff hours @ \$76.00/hr for preparation of final tax return.)	
✓	Inventory	Bond fee: \$880.74 (ok)	
✓	PTC	Closing: \$600.00	
✓	Not.Cred.	<b>Petitioner states</b> the Public Administrator advised heir Donna George on 8-5-08 that she must pay \$1,000.00/month rent for living in Decedent's residence for 19 months; however, she did not pay, and did not move without being served an eviction notice.	
✓	Notice of Hrg		
✓	Aff.Mail	W	
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
✓	Letters	6-9-08	
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
✓	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
N/A	FTB Notice	<b>Distribution pursuant to intestate succession and after payment of court fees and equalization of the above rental debt:</b>  Donna George: \$31,183.14 Denise See: \$50,183.13  <u><b>Note: Need amended account and petition for final distribution in light of Supplemental Inventory and Appraisal filed 8-18-11 and preliminary distributions authorized 9-8-11.</b></u>	<b>Updates:</b> <b>Contacts:</b> Reviewed 11-2-11 <b>Recommendation:</b> <b>Reviewed by:</b> skc <b>File 2- George</b>

**3A William James Williams (Estate)** **Case No. 09CEPR00276**  
**Atty Belardinelli, Richard A. (Petitioner and attorney for Kim Pastenieks/ former Executor)**  
**Atty Teixeira, J. Stanley (former Special Administrator and attorney for Chizuko Williams – Mother)**  
**Atty Kruthers, Heather (Public Administrator – Executor)**  
**Atty Smith, Jane (County Counsel)**

**Petition for Allowance of Compensation for Ordinary and Extraordinary Services  
(Prob. C. 10801, 10811, 10830(a)(1) [Proceeding Commenced on or After July 1,  
1991])**

<b>DOD: 12/20/08</b>		<p><b>Attorney Richard A. Belardinelli is Petitioner.</b> Mr. Belardinelli is the attorney for Kim Pastenieks, former Executor.</p> <p><b>Petitioner states:</b></p> <ol style="list-style-type: none"> <li>On 4/3/09, Petitioner filed a <i>Petition for Probate</i> seeking appointment of Ms. Pastenieks as Executor of Decedent's estate;</li> <li>On 5/7/09, Chizuko Williams (Decedent's mother) filed an Objection to the <i>Petition for Probate</i> and on 5/27/09 a Will Contest and Ground for Objection;</li> <li>Ms. Williams additionally brought a Petition to Appoint Attorney Stanley Teixeira as Special Administrator – which was granted 6/18/09, with letters to expire 7/13/09;</li> <li>Ms. Pastenieks filed her answers to the Will Contest/Grounds for Objections on 6/26/09;</li> <li>A Court trial on the Will Contest was set for 11/6/09; and at trial the Court found no basis for any allegations cited in the Will Contest; Ms. Pastenieks was then appointed Executor of Decedent's will with bond set \$50,000.00, and the letters of Special Administration were vacated;</li> <li>The Public Administrator was later appointed as Executor as Ms. Pastenieks ultimately was unable to obtain a bond;</li> <li>As a result of the Public Administrator's appointment, Attorney Belardinelli filed a creditor's claims for \$5,416.42, which reflected total attorneys' fees (ordinary and extraordinary) and costs of \$13,416.42, less an \$8,000.00 courtesy discount, and received payment on 1/26/10;</li> <li>However, on 6/30/11, Petitioner refunded the sum in compliance with the request of County Counsel and its indication that said amount to Petitioner was never approved by the Court;</li> <li>Petitioner brings the instant Petition for approval of ordinary and extraordinary fees and costs related to the preparation for Ms. Pastenieks' <i>Petition for Probate</i>, pre-hearing preparation for the Will Contest and opposition to same, which involved interviewing witnesses, propounding and filing pleadings, legal research and a one-day presentation at a contested trial;</li> <li>Total statutory fees are \$1,940.00 (4% of \$48,500.00), extraordinary fees incurred are \$11,940.00, costs total \$1,476.42, and a \$395.00 filing fee for the instant Petition;</li> <li><b><u>Petitioner therefore requests a Court order:</u></b> <ul style="list-style-type: none"> <li><b>Authorizing Petitioner's stated fees and costs, less a courtesy discount of \$9940.00, for a resulting total of \$5416.42 (the same amount previously paid, received, and returned).</b>  <i>Note: attached to Petition is Petitioner's creditor's claim and billing records showing itemization of legal work.</i></li> </ul> </li> </ol> <p align="center"><b><u>SEE ATTACHED PAGE</u></b></p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b><u>OFF-CALENDAR</u></b></p> <p><b><u>Continued from 8/15/11. Minute Order states:</u></b> Ms. Smith advises the Court that County Counsel has not been noticed, and they have objections to the petition. The Court continues the matter to 10/3/11. Ms. Smith advises the Court that she will have the accounting done by the next hearing and requests that the accounting be heard at that time. The Court grants her request.</p> <p><b><u>SEE ATTACHED PAGE</u></b></p> <p><b>Reviewed by:</b> NRN</p> <p><b>Reviewed on:</b> 10/31/11</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 3A - Williams</b></p>	
<b>Cont. from 081511, 100311</b>				
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>			
<input checked="" type="checkbox"/>	<b>Verified</b>			
<input type="checkbox"/>	<b>Inventory</b>			
<input type="checkbox"/>	<b>PTC</b>			
<input type="checkbox"/>	<b>Not.Cred.</b>			
<input checked="" type="checkbox"/>	<b>Notice of Hrg</b>			
<input checked="" type="checkbox"/>	<b>Aff.Mail</b>			<b>w</b>
<input type="checkbox"/>	<b>Aff.Pub.</b>			
<input type="checkbox"/>	<b>Sp.Ntc.</b>			
<input type="checkbox"/>	<b>Pers.Serv.</b>			
<input type="checkbox"/>	<b>Conf. Screen</b>			
<input type="checkbox"/>	<b>Letters</b>			
<input type="checkbox"/>	<b>Duties/Supp</b>			
<input checked="" type="checkbox"/>	<b>Objections</b>			
<input type="checkbox"/>	<b>Video Receipt</b>			
<input type="checkbox"/>	<b>CI Report</b>			
<input type="checkbox"/>	<b>9202</b>			
<input checked="" type="checkbox"/>	<b>Order</b>			
<input type="checkbox"/>	<b>Aff. Posting</b>			
<input type="checkbox"/>	<b>Status Rpt</b>			
<input type="checkbox"/>	<b>UCCJEA</b>			
<input type="checkbox"/>	<b>Citation</b>			
<input type="checkbox"/>	<b>FTB Notice</b>			

Cont'd:

***Objections by Public Administrator to Petition, filed 9/29/11, states:***

- Petitioner Belardinelli's original creditor's claim of \$5,416.42 was originally paid by the Public Administrator in error; Deputy Kruthers discovered the error and requested via letter return of the payment (*letter attached to Petitioner's Petition as Exh. 2*);
- Petitioner thereafter did remit the \$5,416.42 payment, and then filed his petition for fees in 07/11;
- Petitioner's request for ordinary fees in the amount of \$5,811.42 would be the entire statutory legal fee, and that amount would have to be split with the attorney for the Public Administrator and possibly Attorney Stanley Teixeira, who was involved in litigation with Petitioner;
- Objector Public Administrator does not dispute that Petitioner provided the services as set forth in his Petition, and additionally, Objector notes Petitioner incurred a much higher amount of extraordinary fees than he is requesting;
- Perhaps Petitioner could consider foregoing a request for any ordinary fee and instead request more in extraordinary fees to make up the difference.
- Petitioner therefore requests that the Court deny Petitioner's *Petition for Allowance of Compensation for Ordinary and Extraordinary Services* as filed.

**Status Hearing Re: First Accounting**

<b>DOD: 12/20/08</b>		<b>PUBLIC ADMINISTRATOR</b> is Executor, and was appointed 7/29/10.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
		<b>KIM PASTENIEKS</b> is the former Executor. She filed her <i>Petition for Allowance of Compensation for Ordinary and Extraordinary Services 7/7/11, and hearing was set on 8/15/11:</i>	<b><u>OFF-CALENDAR - FIRST AND FINAL ACCOUNT FILED 10/28/11 AND SET FOR HEARING ON 12/7/11</u></b>
<b>Cont. from 100311</b>			
	Aff.Sub.Wit.	<p><b>8/15/11 Minute Order on said hearing states:</b> Ms. Smith advises the Court that County Counsel has not been noticed, and they have objections to the petition. The Court continues the matter to 10/3/11. Ms. Smith advises the Court that she will have the accounting done by the next hearing and requests that the accounting be heard at that time. The Court grants her request.</p> <p><i>Status Report Regarding First Account</i>, filed 9/29/11 by Attorneys for the Public Administrator, County Counsel, states:</p> <ul style="list-style-type: none"> <li>At the last hearing on 8/15/11, County Counsel represented that the Public Administrator's accounting would be filed by 10/3/11;</li> <li>Attorney Belardinelli's fee petition is currently scheduled for 10/3/11 (<i>note: see Page 2A</i>) and County Counsel has filed objections to said petition based upon Attorney Belardinelli's requested for the total amount of the ordinary statutory fees;</li> <li>County Counsel has proposed in its objections that Attorney Belardinelli request more of the extraordinary fees he incurred to counter the ordinary fees that he may be denied;</li> <li>The Public Administrator cannot file his final account and request for distribution until the fee matter is settled, as the Court's decision about the fees will change amount of property the Public Administrator has on hand;</li> <li>The Public Administrator requests the status hearing on the 1<sup>st</sup> Account be set out for 45 days from the date of the Court's order regarding Attorney Belardinelli's fee request.</li> </ul>	<p><i>Page 2A is the former Executor's Petition for Allowance of Compensation for Ordinary and Extraordinary Services</i></p> <p>1. Need 1<sup>st</sup> Account. (<i>Note: See status Report Regarding 1<sup>st</sup> Account filed 9/29/11</i>)</p>
✓	Verified		
	Inventory		
	PTC		
	Not.Cred.		
	Notice of Hrg		
	Aff.Mail		
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
	Order		
	Aff. Posting		
✓	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		

DOD: 6/28/09			<b>AMBER SULLIVAN</b> , Daughter and Administrator, is Petitioner.  Accounting is waived.  I&A - \$190,000.00 POH - \$190,000.00 ( <i>no cash</i> )  Administrator - waives (statutory)  Costs advanced - \$2110.00  Petitioner requests her costs in the amount of \$2110.00, and distribution pursuant to intestate succession as follows:  <b>AMBER SULLIVAN</b> , as sole living heir: 100% of estate	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <u>Continued to from 9/19/11.</u> <u>Minute Order states:</u> Amber Sullivan is not present. Amber Sullivan is ordered to appear at the continued hearing of November 7, 2011.
Cont. from 091911				
	Aff.Sub.Wit.			
✓	Verified			
✓	Inventory			
✓	PTC			
	Not.Cred.			
✓	Notice of Hrg			
✓	Aff.Mail	w/o		
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			
	Conf. Screen			
	Letters	4/13/10		
	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
✓	9202			
	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
✓	FTB Notice			
			Reviewed by: NRN Reviewed on: 10/31/11 Updates: Recommendation: File 4 - Sumrall	

**Accounting**

Age:		<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b><u>OFF CALENDAR.</u></b> Case transferred to Los Angeles Superior Court.</p>
Cont. from		
	Aff.Sub.Wit.	
	Verified	
	Inventory	
	PTC	
	Not.Cred.	
	Notice of Hrg	
	Aff.Mail	
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
	Letters	
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
	9202	
	Order	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	
		Reviewed by: KT
		Reviewed on: 11/1/11
		Updates:
		Recommendation:
		File 5 - Davidson

Atty Panzak, Gordon (for Jeff Dale/Successor Trustee – Petitioner)

Atty Pasto, James H. (of San Diego, for Debbie Duehning, Guardian Ad Litem for George McLain IV, Trust beneficiary)

## Status Conference Re: Petition for Instructions

DOD: 5/21/08		<b>JEFF DALE</b> , Successor Trustee of the Elaine A. McLain Trust of 1996 (“Trust”), is Petitioner.  <b>Petitioner states:</b> <ol style="list-style-type: none"> <li>Elaine McLain (“Decedent”) created the Trust on 10/26/96 (a copy of the Trust is attached to Petition);</li> <li>The Trust became irrevocable upon Decedent’s death in May 2008;</li> <li>Michele Dale and George McLain IV, named successor trustees, are both incompetent within the meaning of the Trust’s disqualification clauses (see Trust – p. 14; paragraph 9);</li> <li>Petitioner succeeded both George McLain IV and Michelle Dale as sole successor trustee;</li> <li>The principal place of Trust administration is Fresno County;</li> <li>During the co-trusteeship of Michele Dale and George McLain IV, Decedent directed that 2 parcels of Trust real property be sold, and both co-trustees participated in the sales;</li> <li>A substantial portion of the proceeds of the 2 sales were consumed in the day-to-day care of Decedent;</li> <li>The remaining portion of the funds were placed in an investment account which primarily held stocks and securities traded on the New York Stock Exchange;</li> <li>Title to the investment accounts were in the name of Elaine McLain and Michele Dale as joint tenants; no reference was made to trustee or fiduciary interests in the ownership documents;</li> <li>The Trust (p. 10, paragraph 5, sub M), allows title to remain in the Trust even though the title documents do not disclose the trusteeship or fiduciary obligation of the account holder;</li> <li>In the fall of 2008, the Stock Market collapsed and the security accounts plummeted to ½ of their value and were trending even lower;</li> <li>The Conservator of the Estate for Michele Dale obtained an emergency court order, allowing funds to be withdrawn from the investment account before further loss could occur, which resulted in saving approximately \$214,00.00;</li> <li>Due to ambiguity of the Trust’s wording at P.10, paragraph 5, sub M, on the advice of counsel, the money was split into 2 segregated accounts: one account for the benefit of Michele Dale, Conservatee, and the other for the benefit of George McLain IV;</li> </ol> <p align="center"><i>--see attached page--</i></p>	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <u>Continued from 10/3/11. Minute Order states:</u> Mr. Pasto is appearing via conference call. Mr. Pasto requests a continuance. Mr. Panzak advises the Court that the \$170,000 and \$25,000 have been transferred to segregated accounts. Mr. Pasto waives time for Mr. Panzak’s response to his newly filed motion. The Court orders that the accounts remain frozen.	
Cont. from 022811, 041111, 060611, 080111, 100311				
	Aff.Sub.Wit.			
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
✓	Notice of Hrg			
✓	Aff.Mail			w
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	Letters			
	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			

Reviewed by: NRN
Reviewed on: 10/31/11
Updates:
Recommendation:
File 6A - Mclain

**Cont'd:**

14. In September 2009, Conservator of Michele Dale petitioned this Court for instructions to distribute the segregated accounts to the Trust;
15. This Court declined to issue instructions, believing insufficient facts were before the Court to justify the instructions;
16. The Michele Dale Conservatorship's principal place of management is in Fresno County;
17. Pursuant to P.10, paragraph 5, subs. K and Q, the successor trustee is entitled to retain counsel and commence any necessary litigation on behalf of the Trust.

**Argument:**

- a. Petitioner believes the proceeds in the 2 segregated accounts are attributable and traceable to the co-trustees' sales of the 2 parcels of real property, and that the accounts are therefore property of the Trust;
- b. It is reasonable and necessary to file an action against the Conservatorship Estate of Michele Dale in order to regain control of the accounts and in order to close the Trust, pay debts and taxes, and distribute the remainder to the beneficiaries.

**Petitioner requests an Order:**

1. That good cause exists for the issuance of the instructions;
2. That successor trustee (Petitioner) be authorized to commence the litigation against the conservatorship to pay all necessary and reasonable costs involved from Trust assets;
3. That Petitioner be authorized to retain counsel as he deems appropriate and pay an initial retainer not to exceed \$10,000.00 and pay an hourly rate not to exceed \$300.00 per hour;
4. That Petitioner be authorized to enter into other such compensation agreements including making a contingency fee payment agreement not to exceed \$25,000.00 in addition to or alternative to the compensation mentioned with respect to counsel fees above.

***Supplement to Successor Trustee's Petition for Instruction***, filed 4/4/11 by Petitioner Jeff Dale, states:

- The matter was initially heard on 2/28/11 in Dept. 303, Fresno Superior Court;
- Upon agreement of the parties present and upon suggestion of the Court, Petitioner agreed to modify the Prayer of his Petition for Instructions as follows:
  - Upon application of the Successor Trustee to the Trust, Petitioner prays for a Court order as follows:
    - That good cause appears for the issuance of the Instructions.
    - That Jeff Dale, as Conservator of the Estate of Michele Dale, Conservatee, be ordered to pay the Trust the sum of \$107,000.00, now being held by the Conservatorship of Michele Dale;
    - That Jeff Dale, as Conservator of the Estate of Michele Dale, Conservatee, be ordered to execute any and all documents necessary to facilitate such transfer of funds.

Atty Panzak, Gordon (for Jeff Dale/Successor Trustee – Petitioner)

Atty Pasto, James H. (of San Diego, for Debbie Duehning, Guardian Ad Litem for George McLain IV, Trust beneficiary)

Status Conference Re: Petition for Order Compelling Trustee to Make Distribution to Trust Beneficiary; For Imposition of a Constructive Trust; and for an Accounting [Prob. C. § 17200, et seq.]

DOD: 5/26/08		<b>GEORGE MCLAIN IV, by and through his Guardian Ad Litem, DEBBIE DUEHNING, is Petitioner ("Petitioner").</b>		<b>NEEDS/PROBLEMS/COMMENTS:</b> <u>Continued from 10/3/11.</u> <u>Minute Order states: Mr. Pasto is appearing via conference call. Mr. Pasto requests a continuance. Mr. Panzak advises the Court that the \$170,000 and \$25,000 have been transferred to segregated accounts. Mr. Pasto waives time for Mr. Panzak's response to his newly filed motion. The Court orders that the accounts remain frozen.</u>
Cont. from 060611, 080111, 100311				<b>1. Need Order.</b>  <u>Note:</u> per this Court's order dated 6/6/11, the Court ordered Jeff Dale, as Conservator of the estate of Michele Dale, to transfer \$107,000.00 from the conservatorship to the Trust. No distributions are to be made without further court order.
Aff.Sub.Wit.				
✓	Verified			<b>Reviewed by: NRN</b>
	Inventory			
	PTC			<b>Reviewed on: 10/31/11</b>
	Not.Cred.			
✓	Notice of Hrg			<b>Updates:</b>
✓	Aff.Mail	w		
	Aff.Pub.			<b>Recommendation:</b>
	Sp.Ntc.			
	Pers.Serv.			<b>File 6B - McLain</b>
	Conf. Screen			
	Letters			
	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
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	Order	X		
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			

**Petition states:**

- Decedent died on or about 5/26/08, a resident of San Diego County;
- The Trust at issue is The Elaine A. McLain Trust of 1996 ("Trust"); administration of said Trust is in Fresno County;
- Respondent Jeffrey Dale ("Respondent"), Conservator of the Person and Estate of Michelle Lloyd Dale; is also the sole successor Trustee of the Trust;
- Petitioner George McLain IV is a beneficiary of the Trust;
- At the time of its creation, the Trust owned 1) real property known as 528 Dawson, Morro Bay, California 2) 1095 Allesandro, Morro Bay, California and 3) money invested in the Franklin California Tax Free Income Fund, Inc., Acct. No. 1120-1121500;
- Prior to Decedent's death, the two real properties were sold by Respondent and deposited into bank accounts held in Michele Lloyd Dale's name, as was the Franklin California Tax Free account;
- As such, the Trust's property is money held in an account or accounts in Michele Lloyd Dale's name, in such sum(s) more particularly within Respondent's knowledge;
- Petitioner believes some or all of the funds may have been transferred back to the Trust and Petitioner is unaware of the precise ownership of those funds;
- However, Petitioner further alleges that if any transfer was made from the Trust to Michele Lloyd Dale and Decedent with right of survivorship, such transfer was made when Trustor (Decedent) lacked capacity to understand the nature and effect of said transfer.
- Decedent did not intend to remove the funds from the Trust corpus, and did not intend for all of the unused portion of the Trust to go solely to Michele Lloyd Dale, to the exclusion of Decedent's son, Petitioner George McLain IV;
- Petitioner is a Trust beneficiary with 1/2 interest in the Trust;
- Michele Lloyd Dale is the only other Trust beneficiary;
- Per Trust terms, upon Decedent Trustor's death, the Trust terminates and is to be distributed to Decedent's children, Petitioner and Michele L. McLain Dale, equally.
- Despite Petitioner's repeated demands, Respondent Jeffrey Dale has refused to distribute that portion of the Trust to Petitioner;
- On 5/28/10, Petitioner's attorney (Mr. Pasto) delivered a written request to Respondent for an account of Trust activities and status of the Trust corpus (copy of letter attached to Petition);
- Respondent Trustee has failed to provide any account whatsoever;
- Petitioner believes compensation in a reasonable sum determined by the Court should be awarded as attorney's fees for his attorney in this matter, and that said amount should be charged to Respondent's account or as a Trust expense and paid to Attorney Pasto.

**SEE ATTACHED PAGE**

**Cont'd:****Request for Imposition of Constructive Trust**

- At all times a confidential relationship (Sole Trustee and Trust beneficiary) existed between Petitioner and Respondent;
- Respondent was aware or had reason to believe that Petitioner was suffering from a form of dementia and unable to understand the location and nature of his (Petitioner's) assets, and also unable to give informed consent to any of Respondent Trustee's actions in connection with Respondent's administration of the Trust;
- Respondent transferred title to the property that should have been distributed to Petitioner to account(s) in the name of Michele Doyle and without Petitioner's consent, at a loss to Petitioner in a sum as may be shown according to proof;
- Respondent has failed to distribute the funds to which Petitioner is entitled as Respondent Jeffery Dale, as Conservator of Michele Dale's estate wishes to maintain in other court and administrative proceedings the fiction that the Trust assets are property of the Trust and that Michele Dale does not have ownership or control of those funds;
- By virtue of Respondent's wrongful acts and the violation of the relationship of trust and confidence then existing between them, Respondent, as Trustee of the Trust and as Conservator of Michele Dale, holds title to Petitioner's one-half share of the Trust assets, as a constructive trustee for Petitioner's benefit.

**Request for an Accounting**

- Respondent owed Petitioner a duty to keep Petitioner reasonably informed of the Trust and its administration, and to account to Petitioner as a Trust beneficiary for Trust activities;
- Petitioner has repeatedly requested, both orally and in writing, that Respondent Jeffrey Dale, as Trustee of the Trust, provide an account of the Trust's activities and required by the California Probate Code;
- Respondent has breached his fiduciary duties owed to Petitioner.

**Petitioner requests:**

- **The court find that Michele Dale holds Petitioner's interest in the aforementioned bank accounts in her name in constructive trust for the benefit of Petitioner;**
- **The court order Respondent Jeffrey Dale, Trustee, to distribute to Petitioner his portion of the Trust;**
- **The court require Respondent Jeffrey Dale to account for all Trust assets and activities to Petitioner;**
- **The court order Petitioner's attorney's fee in a reasonable sum to be paid to Petitioner's attorney directly from the Trust Estate, to be charged to Michele Dale or to the Trust estate;**
- **Costs of this proceeding be ordered paid by the Estate in proportions determined by the Court;**
- **Such other and further relief the Court deems just and proper.**

**SEE ATTACHED PAGE**

**6B**

Cont'd:

*Respondent's Answer to Petitioner's Petition for Order Compelling Trustee*, filed 6/2/11, states:

- Respondent denies most allegations of Petitioner's Petition based on insufficient knowledge of facts alleged;
- Upon the creation of the Trust and thereafter, Petitioner Jeff Dale and Michele Dale were acting as co-trustees of the Trust;
- Between 3/19/6 and 7/2007, Petitioner and Michele Dale executed the duties of co-trustees; during this time period and at the direction of Decedent, Petitioner and Michele Dale, acting as co-trustees, sold the 528 Dawson and 1095 Allesandro properties; during this same time period, proceeds from the property sales were place into interest-bearing accounts at the direction of Decedent; said accounts were in Decedent and Michele Dales' names (and not in the name "Elaine A. McLain Trust of 1996;" both co-trustees agreed to and participated in all sales and transfers of the funds to those accounts;
- Between 3/19/96 and 5/26/08, most, if not all of the sales proceeds were consumed in the care of Decedent until her death; both co-trustees agreed and participated in the payments;
- Upon Decedent's death, any residual funds in the accounts went to Michele under the survivorship provision of the accounts (said accounts having been created in that manner with the participation and agreement of Decedent and co-trustees Jeff Dale and Michele);
- Upon the incapacities of Petitioner George McLain and Michele Dale in July 2007, Jeff Dale became sole successor Trustee and the principal place of administration of the Trust became 1408 H Street in Fresno;
- The status of the Franklin Fund Account was concealed from Trustee by Petitioner and his Guardian Ad Litem acting in concert with one another, and was only recently discovered;
- Trustee has contacted Franklin Funds and is in the process of bringing these funds into the Trust;
- Petitioner's Guardian Ad Litem is the former wife of George McLain IV, and has him locked in her home and is taking the proceeds from his Veterans Benefit Checks by the artifice of a very questionable Power of Attorney;
- Petitioner's Petition is in furtherance of the Guardian Ad Litem's fraudulent intent to defraud the Trust and George McLain IV.
- Respondent alleges various affirmative defenses, based upon the following assertions:
  - Petitioner as a beneficiary lacks standing with respect to assets in a revocable Trust and where the assets were removed and revoked by Trustor no later than 2003;
  - The property sales and transfer of the proceeds to the aforementioned accounts occurred no later than 2003 and were done with the knowledge and participation of Petitioner George McLain IV;
  - Petitioner's Petition is file against Jeff Dale in a personal capacity and not in the capacity of Trustee.
- **Respondent requests the Petition by denied, costs be awarded to Respondent, and for any other relief or order that the Court deems appropriate.**

Atty Panzak, Gordon (for Jeff Dale/Successor Trustee – Petitioner)

Atty Pasto, James H. (of San Diego, for Debbie Duehning, Guardian Ad Litem for George McLain IV, Trust beneficiary)

Petition to Review Reasonableness of Trustees Compensation, Reasonableness of Attorney's Fees and Costs, for an Accounting and for Removal of Trustee (Prob. C. 17200, et seq.)

DOD: 5/26/08		<b>GEORGE MCLAIN, IV</b> , through his Guardian ad Litem, <b>DEBBIE DUEHNING</b> , is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <u>Continued from 10/11/11.</u> <u>Minute Order states:</u> <u>Matter continued to 11/7/11</u> <u>per minute order of 10/3/11.</u>
		<b>Petitioner states:</b> <ul style="list-style-type: none"> <li>Respondent, Jeffrey Dale ("Jeff Dale"), is Conservator of the person and estate of Michele Lloyd Del Dale ("Michele") in Fresno County Case No. 07CEPR01207;</li> <li>The Trust that is the subject of this action was created pursuant to a written Declaration of trust of Elaine A. McLain dated 3/19/96 and entitled "The Elaine A. McLain Trust of 1996," ("Trust"), and upon Elaine McLain's ("Decedent") death on 5/2/08, became irrevocable;</li> <li>Jeffrey Dale, resident of Fresno, is, after the incapacity George McLain IV, the sole successor trustee;</li> <li>George McLain IV is a Trust beneficiary, entitled to ½ of the estate (as is Michele), and he brings the instant petition pursuant to §17200(b)(50), (b)(7)(B), (b)(7)(C), (b)(10), and (b)(12);</li> <li>At its creation, the Trust was the owner of two real properties located in Morro Bay, CA, as well as money invested in the Franklin California Tax Free Income Fund, Inc.;</li> <li>Prior to Decedent's death, the two Morro Bay properties were sold by the Trustee and the proceeds were deposited into bank accounts held in Michele's name– as were the liquidated proceeds from the Franklin California Tax Free Income Fund account;</li> <li>Petitioner believes that some or all of the funds held in Michele's name may have been transferred back to the Trust, however, Petitioner is unaware of the precise ownership of these funds; however, if any of the funds were transferred from the Trust to Michele and Decedent with right of survivorship, said transfer was made when Decedent lacked capacity to understand the nature and effect of the transfer; Petitioner alleges that Decedent did not intend to remove funds from the Trust corpus, nor did she intend for the unused portion of the Trust to go solely to Michele, to the exclusion of her son, Petitioner George McLain;</li> </ul>	<b>Reviewed by:</b> NRN <b>Reviewed on:</b> 11/1/11 <b>Updates:</b> <b>Recommendation:</b> <b>File 6C - McLain</b>
<b>Cont. from 101111</b>			
Aff.Sub.Wit.		<b><u>Respondent Trustee's Request for Compensation and Attorneys' Fees and Costs</u></b> <ul style="list-style-type: none"> <li>The Trust does not specify the trustee's compensation;</li> <li>On 7/29/11, Jeff Dale, as Trustee, served on Petitioner a First Account of Trust assets; the account requests \$14,400.00 as trustee compensation and \$19,500.00 for attorneys' fees and costs advanced;</li> </ul> <u>SEE ATTACHED PAGE</u>	
Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg			
Aff.Mail			
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			

**Cont'd:**

- However, said amounts are unreasonably high and unfounded because:
  - The main asset listed, a sum of \$109,451.02 on deposit with Bank of the West, was not deposited into the Trust account until April 2011 (and was, prior to this time, held in Michele's conservatorship estate); as Conservator of Michele's estate therefore, presumably Jeff Dale was entitled to and did receive compensation as Conservator in that proceeding – prior to that April 2011 deposit;
  - Further, the First Account lists two other "possible" assets, as they are either not yet part of the Trust estate or even Trust assets. These are a Franklin Templeton Investment Account in the approximate sum of \$21,631.91 and listed in the Account as "Pending transfer to the Trust"), and the other is designated as a "possible Trust asset," which being investigated by the Trustee; once again, there is no explanation as to why the Franklin Templeton Account has not been transferred to the Trust in the over 3-year period since Decedent's death; and again, assuming these funds were part of Michele's conservatorship estate, Jeff Dale was entitled to and presumably did receive compensation for his services as Conservator of the Michele's estate; presumably the "possible Trust asset" has also been held in the name of Michele's conservatorship estate;
- Still, Jeff Dale now seeks compensation in the amount of \$14,400.00, and he also does not explain the amount of attorneys' fees and costs in the amount of \$19,900.00;
- Petitioner also objects to the First Account in that it does not contain an inventory of the assets at such time as Jeff Dale assumed his duties as sole trustee, nor does the First Account provide detail of his actions taken as the trustee;
- Jeff Dale has breached his fiduciary duty to reasonably inform the Trust beneficiaries of his activities as trustee, as well as account for Trust assets;
- Jeff Dale has further wasted and mismanaged Trust assets to the detriment and loss of the Trust estate by commingling Trust assets with assets belonging to Michele's conservatorship estate – and he has failed to collect and preserve Trust assets in a timely fashion;
- Jeff Dale has further attempted to raid the Trust by requesting unreasonable compensation for activities conducted not for the Trust's benefit, but rather for Michele's conservatorship estate.

**Petitioner requests:**

1. A Court order compelling Jeff Dale to distribute to Petitioner his ½ portion of the Trust;
2. That the Court remove Jeff Dale as trustee of the Trust and appoint Petitioner as sole trustee;
3. Should the Court be unwilling to appoint Petitioner, that the Court appoint an independent qualified trustee;
4. That Jeff Dale be ordered to deliver all Trust assets in his possession and control to the successor trustee within 60 days after issuance of this Court's order;
5. That Jeff Dale be ordered to file an accounting detailing his acts as trustee, no later than 60 days after the Court's order;
6. That the Court order Petitioner's attorneys' fees in a reasonable sum, to be paid from the Trust estate, to be charged to Michele or the Trust estate;
7. That costs of this proceeding be ordered to be paid by the Trust estate in proportions determined by the Court; and
8. Other such relief as the Court deems proper.

**6D In Re the Trust of Elaine A Mclain (Trust)****Case No. 11CEPR00028****Atty Panzak, Gordon (for Jeff Dale/Successor Trustee – Petitioner)****Atty Pasto, James H. (of San Diego, for Debbie Duehning, Guardian Ad Litem for George McLain IV, Trust beneficiary)****Notice of Motion and Motion to Amend Petition**

<b>DOD: 5/26/08</b>		<b>GEORGE MCLAIN, IV</b> , through his Guardian ad Litem, <b>DEBBIE DUEHNING</b> , is Petitioner.  <u><b>Petition states:</b></u> <ul style="list-style-type: none"> <li>Amendment to the original Petition is necessary to clarify that Jeffrey Dale is named as a respondent not only as an individual, but also in his capacity as trustee (Jeffrey Dale has refused to respond to discovery thus far, as he Petitioner's original Petition is directed at him as an individual)</li> <li>Petitioner should further be permitted to amend his petition to allege additional acts of the trustee which would constitute a breach of his fiduciary duties; Jeffrey Dale has served a First Account of his Trust activities, and, Petitioner believes that such activities (or lack thereof) furnish an additional basis for relief and should be included in the relief requests.</li> <li><b>Therefore, Petitioner requests</b> the Court order the First Amended Petition (attached to Petition herein) be filed.</li> </ul> <u><b>Points and Authorities Attached to Petition</b></u>	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <u>Continued from 10/11/11. Minute Order states:</u> Matter continued to 11/7/11 per minute order of 10/3/11.
<b>Cont. from 101111</b>			
<b>Aff.Sub.Wit.</b>			
<b>Verified</b>			
<b>Inventory</b>			
<b>PTC</b>			
<b>Not.Cred.</b>			
<b>Notice of Hrg</b>			
<b>Aff.Mail</b>			
<b>Aff.Pub.</b>			
<b>Sp.Ntc.</b>			
<b>Pers.Serv.</b>			
<b>Conf. Screen</b>			
<b>Letters</b>			
<b>Duties/Supp</b>			
<b>Objections</b>			
<b>Video Receipt</b>			
<b>CI Report</b>			
<b>9202</b>			
<b>Order</b>			
<b>Aff. Posting</b>			
<b>Status Rpt</b>			
<b>UCCJEA</b>			
<b>Citation</b>			
<b>FTB Notice</b>			
		<b>Reviewed by:</b> NRN	
		<b>Reviewed on:</b> 11/1/11	
		<b>Updates:</b>	
		<b>Recommendation:</b>	
		<b>File 6D - Mclain</b>	

**6D**

## (1) Petition for Final Distribution on Waiver of Accounting and for (2) Allowance of Fees

<b>DOD: 2/4/11</b>			<b>KATHLEEN MARY GRAHAM,</b> Administrator, is petitioner.  Accounting is waived.  I & A - <b>\$173,000.00</b> POH - <b>\$102,082.26</b>  Administrator - <b>waives</b>  Attorney (statutory) - <b>\$6,190.00</b>  Closing - <b>\$2,000.00</b>  <b>Distribution, pursuant to intestate succession, is to:</b>  Thomas Grenville Corbett - \$46,905.00  Kathleen Mary Graham - \$46,905.00, less \$45,000.00 received in a preliminary distribution for a total of \$1,905.00.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
<b>Cont. from</b>				
	<b>Aff.Sub.Wit.</b>			
✓	<b>Verified</b>			
✓	<b>Inventory</b>			
✓	<b>PTC</b>			
✓	<b>Not.Cred.</b>			
✓	<b>Notice of Hrg</b>	W/		
✓	<b>Aff.Mail</b>			
	<b>Aff.Pub.</b>			
	<b>Sp.Ntc.</b>			
	<b>Pers.Serv.</b>			
	<b>Conf. Screen</b>			
✓	<b>Letters</b>	5/2/11		
	<b>Duties/Supp</b>			
	<b>Objections</b>			
	<b>Video Receipt</b>			
	<b>CI Report</b>			
✓	<b>9202</b>			
✓	<b>Order</b>			
	<b>Aff. Posting</b>			
	<b>Status Rpt</b>			
	<b>UCCJEA</b>			
	<b>Citation</b>			
✓	<b>FTB Notice</b>			

<b>Reviewed by: KT</b>
<b>Reviewed on: 11/1/11</b>
<b>Updates:</b>
<b>Recommendation: SUBMITTED</b>
<b>File 7 - Corbett</b>

Atty LeVan, Nancy J., sole practitioner (for Katrina Leal, daughter, and Jason Hermosillo, son)  
 Atty Magness, Marcus, of Gilmore Wood Vinnard & Magness (for Arthur Hermosillo, proposed Conservatee, and for Jessica Hermosillo, daughter)  
 Atty Kruthers, Heather H., of County Counsel (for Public Guardian, *former* Temporary Conservator)

## Notice of Motion and Motion of Arthur Hermosillo to Consolidate Proceedings

Age: 53 years		<b>ARTHUR HERMOSILLO</b> moves the Court pursuant to Code of Civil Procedure § 1048(a) and CA Rule of Court 3.350 for an order granting consolidation of Case No. 11CEPR00214 with Case No. 11CEPR00777, on the following grounds: <ul style="list-style-type: none"> <li>The two cases involve common questions of law and fact; Petitioners <b>KATRINA LEAL</b> and <b>JASON HERMOSILLO</b> allege their father, Arthur Hermosillo, is incapacitated and their sister, <b>JESSICA HERMOSILLO</b>, with whom Arthur resides and who serves as his attorney-in-fact, is taking advantage of Arthur and diverting her funds to her own uses; to allow both cases to proceed separately would result in Arthur incurring duplicative costs and attorneys' fees in conducting discovery, retention of expert witnesses, and trial;</li> <li>Judicial economy will be served by consolidation; issues present in both cases include whether Arthur has capacity, whether Jessica breached her fiduciary duty under the <i>Durable Power of Attorney</i>, and whether Arthur requires the appointment of a conservator; percipient witnesses will be the same, the same experts will testify at trial in both actions, and the evidence presented will be substantially the same; and</li> <li>No other party to either action will be prejudiced by consolidation.</li> </ul>	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <b>Note: Attorney Nancy LeVan filed on 10/24/2011 a Notice of Unavailability stating she will be unavailable from 10/25/2011 through 11/8/2011.</b>  Please refer to related case on Pages 12A, 12B and 12C.  <b>Note: Minute Order dated 10/3/2011 from the hearing on the Petition for Appointment of Probate Conservator set the matter for Settlement Conference on 11/15/2011, and for Court Trial on 2/14/2012.</b>
DOB: 1-1-1958			
Cont. from			
	Aff.Sub.Wit.		
✓	Verified		
	Inventory		
	PTC		
	Not.Cred.		
	Notice of Hrg		
✓	Aff.Mail	W/	
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
		<b>Movant states:</b> <ul style="list-style-type: none"> <li>Petitioners <b>KATRINA LEAL</b> and <b>JASON HERMOSILLO</b> are represented by Nancy J. LeVan in both case numbers;</li> <li><b>ARTHUR HERMOSILLO</b>, who has appeared in Case No. 11CEPR0021, is represented by the law firm of Gilmore, Wood, Vinnard &amp; Magness;</li> <li>Concurrently with this <i>Motion</i>, <b>JESSICA HERMOSILLO</b> is filing a <i>Motion to Strike</i> in Case No. 11CEPR00777, which is her first appearance in that case, and she is represented by the law firm of Gilmore, Wood, Vinnard &amp; Magness;</li> </ul> <p>This <i>Motion</i> is based on the <i>Notice of Motion</i>, the <i>Memorandum of Points and Authorities</i>, the <i>Declaration of Marcus D. Magness</i>, all of the pleadings, files and records in this proceeding, all other matters of which the Court may take judicial notice, and any argument or evidence that may be presented to or considered by the Court.</p>	
			<b>Reviewed by:</b> LEG <b>Reviewed on:</b> 11/1/11 <b>Updates:</b> <b>Recommendation:</b> <b>File 8 - Hermosillo</b>

***Declaration of Marcus D. Magness in Support of Motion of Arthur Hermosillo to Consolidate Proceedings filed on 10/13/2011 states:***

- On 3/23/2011, Arthur Hermosillo appointed Jessica Hermosillo as his attorney-in-fact under a Durable Power of Attorney for Management of Property and Personal Affairs; as his agent, Arthur is obligated to defend and indemnify Jessica from any costs and attorneys' fees incurred as a result of her carrying out her duties;
- For that reason, subject to Court approval under the temporary conservator, Arthur will pay Jessica's attorneys' fees and costs incurred in defending against the *Petition to Compel*;
- The allegations in the *Petition for Appointment of Probate Conservator* are essentially the same as those alleged in the *Petition to Compel*; Petitioners allege that Arthur lacks capacity and he lacked capacity at the time he signed the *Durable Power of Attorney* at issue; that Jessica is not providing adequate care of Arthur; and that Jessica is using her undue influence on Arthur and is diverting his assets to her own personal uses;
- The trial on the *Petition for Appointment* has been set for three days beginning on 2/14/2012; a trial on the *Petition to Compel* would also likely take three days if permitted to proceed separately due to the number of witnesses involved and the issues at hand;
- Arthur and Jessica intend to depose the same witnesses and to conduct the same discovery in both cases and have retained the same expert witnesses to testify at trial in both cases; it is anticipated that Petitioners will also call the same witnesses and expert witnesses at trial in both cases;
- Arthur and Jessica will both be presenting the same documents, accountings and other evidence at trial in both cases.

***Request for Judicial Notice in Support of Motion of Arthur Hermosillo to Consolidate Proceeds filed on 10/13/2011 requests the Court take judicial notice pursuant to Evidence Code § 452 of the following:***

- *Petition to Compel Formal Accounting from Jessica Hermosillo* filed on 9/1/2011 (copy attached as Exhibit A); and
- *Objection to Accounting Presented* filed on 9/26/2011 (copy attached as Exhibit B).

(1) Petition for Settlement of Second Account; (2) for Order Dispensing with Further Accountings for Small Estate; (3) Waiver of Bond; and Declaration in Support  
(Prob. C. 1060-1064, 2628, 2321)

Age: 87		TERESA MARGREY, family friend and Conservator, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
DOB: 5-3-24			
		Account Period: 7-1-10 through 9-30-11	<p><b>Note:</b> Petitioner was appointed Conservator of the Person and Estate with medical consent powers without bond in San Mateo County on 6-19-09. The First Account was settled there on 12-6-10.</p> <p>1. The Request for Special Notice filed 6-10-09 requires notice be sent to <u>both</u> Attorney Daniel Marshall <u>and to Conservatee's son Jay Tommie Roberts</u>. Notice of Hearing indicates notice was only sent to the attorney, not to Mr. Roberts.</p> <p>Therefore, before this matter can go forward, need proof of service of Notice of Hearing with a copy of the petition at least 15 days prior to the hearing per Probate Code §1252 and Cal. Rule of Court 7.51 <u>or</u> waiver of notice on Jay Tommie Roberts (son).</p> <p>2. Notice of Hearing was not served on the Conservatee pursuant to Probate Code §§ 2621, 1460(b)(2). Need proof of service of Notice of Hearing on the Conservatee at least 15 days prior to the hearing.</p> <p>3. Petitioner requests authorization to dispense an allowance for the Conservatee from his living trust. Examiner notes that administration of the trust(s) is not before the Court and such authorization may be inappropriate within this conservatorship estate.</p> <p>4. Need Order.</p>
		Accounting: \$0	
		Beginning POH: \$0	
		Ending POH: \$0	
<input type="checkbox"/>	Aff.Sub.Wit.	Conservator: Not addressed	
<input checked="" type="checkbox"/>	Verified	Attorney: Not addressed	
<input type="checkbox"/>	Inventory	<b>Petitioner states</b> there are no assets in the estate and it is anticipated that the estate will derive any income whatsoever as all such amounts are collected by the Conservatee's living trust.	
<input type="checkbox"/>	PTC	Petitioner is also the Successor Trustee of the Roberts Family Survivor's Trust, the Roberts Family Exemption Trust and the Roberts Family Marital Trust, all non-court supervised trusts which are administered in Madera County, CA. The Trusts contain a combined total in excess of \$1,000,000.00, which is available for the Conservatee's needs.	
<input type="checkbox"/>	Not.Cred.	In the order appointing the conservator, the court authorized an allowance to the Conservatee of \$50.00/week. Petitioner seeks authorization to continue paying this allowance from the assets of the Trust.	
<input checked="" type="checkbox"/>	Notice of Hrg	Petitioner requests to waive further accountings pursuant to Probate Code §2628.	
<input checked="" type="checkbox"/>	Aff.Mail	W	
<input type="checkbox"/>	Aff.Pub.	Petitioner requests that bond continue to be waived as all income is deposited directly to the Conservatee's trust account and is used for his benefit.	
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input checked="" type="checkbox"/>	CI Report		
N/A	9202		
	Order	X	
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice	<p><b>Petitioner prays for an Order to:</b></p> <ol style="list-style-type: none"> <li>1. Settle and allow this account and report;</li> <li>2. Approve and confirm the acts of Petitioner;</li> <li>3. Dispense with further accountings as long as the conditions of Probate Code §2628 are satisfied;</li> <li>4. Continue to waive bond in this matter; and</li> <li>5. For such other orders as the Court may deem proper.</li> </ol>	

**Petition to Approve Purchase of Estate Property by Personal Representative (Prob. C. 9883)**

<b>DOD: 4-23-11</b>		<p><b>ROBERT S. LOEB</b>, Executor with full IAEA without bond, is Petitioner.</p> <p>Inventory and Appraisal filed 9-23-11 reflects a total estate value of \$303,459.06, which includes a 2010 Honda Civic valued at \$19,000.00.</p> <p>Petitioner proposes to purchase the 2010 Honda Civic from the estate at the appraised value of \$19,000.00 to prevent further depreciation of this asset.</p> <p>All heirs consent to the sale of the vehicle to Petitioner.</p>	<b>NEEDS/PROBLEMS/COMMENTS:</b>	
<input type="checkbox"/>	Aff.Sub.Wit.			
<input checked="" type="checkbox"/>	Verified			
<input checked="" type="checkbox"/>	Inventory			
<input type="checkbox"/>	PTC			
<input type="checkbox"/>	Not.Cred.			
<input checked="" type="checkbox"/>	Notice of Hrg			
<input checked="" type="checkbox"/>	Aff.Mail			w
<input type="checkbox"/>	Aff.Pub.			
<input type="checkbox"/>	Sp.Ntc.			
<input type="checkbox"/>	Pers.Serv.			
<input type="checkbox"/>	Conf. Screen			
<input checked="" type="checkbox"/>	Letters			7-21-11
<input type="checkbox"/>	Duties/Supp			
<input type="checkbox"/>	Objections			
<input type="checkbox"/>	Video Receipt			
<input type="checkbox"/>	CI Report			
<input type="checkbox"/>	9202			
<input checked="" type="checkbox"/>	Order			
<input type="checkbox"/>	Aff. Posting			
<input type="checkbox"/>	Status Rpt			
<input type="checkbox"/>	UCCJEA			
<input type="checkbox"/>	Citation			
<input type="checkbox"/>	FTB Notice			
			Reviewed by: skc	
			Reviewed on: 11-1-11	
			Updates:	
			Recommendation: SUBMITTED	
			File 10 – Del Carmen	

**Petition to Determine Succession to Real Property (Prob. C. 13151)**

<b>DOD: 4/12/11</b>		<b>ELAINE COOPER</b> , daughter, is petitioner.  40 days since DOD.  No other proceedings.  Will dated 10/5/2006 devises entire estate to daughter, Elaine Cooper.  I & A - <b>\$75,000.00</b>  <b>Petitioner requests</b> court determination that Decedent's 100% interest in real property passes to her pursuant to Decedent's Will.	<b>NEEDS/PROBLEMS/COMMENTS:</b>  Continued from 10/6/11. Minute Order states Lane Pinegar is appearing via conference call. The Court indicates for the record that it appears that proper notice has not been given. The Court continues the matter to <b>11/7/11</b> . – <i>Notice of Hearing was filed on 11/17/11 showing Lane Louis Pinegar was mailed notice on 10/13/11.</i>
<b>Cont. from 100611</b>			
	<b>Aff.Sub.Wit.</b>		
✓	<b>Verified</b>		
✓	<b>Inventory</b>		
	<b>PTC</b>		
	<b>Not.Cred.</b>		
✓	<b>Notice of Hrg</b>	W/	
✓	<b>Aff.Mail</b>		
	<b>Aff.Pub.</b>		
	<b>Sp.Ntc.</b>		
	<b>Pers.Serv.</b>		
	<b>Conf. Screen</b>		
	<b>Letters</b>		
	<b>Duties/Supp</b>		
	<b>Objections</b>		
	<b>Video Receipt</b>		
	<b>CI Report</b>		
	<b>9202</b>		
✓	<b>Order</b>		
	<b>Aff. Posting</b>		
	<b>Status Rpt</b>		
	<b>UCCJEA</b>		
	<b>Citation</b>		
	<b>FTB Notice</b>		
			<b>Reviewed by: KT</b> <b>Reviewed on: 10/31/11</b> <b>Updates:</b> <b>Recommendation: SUBMITTED</b> <b>File 11 - Reguera</b>

**Atty LeVan, Nancy J., sole practitioner (for Katrina Leal, daughter, and Jason Hermosillo, son)**  
**Atty Magness, Marcus, of Gilmore Wood Vinnard & Magness (for Arthur Hermosillo, proposed Conservatee, and for Jessica Hermosillo, daughter)**  
**Atty Kruthers, Heather H., of County Counsel (for Public Guardian, former Temporary Conservator)**

**Petition to Compel Formal Accounting from Jessica Hermosillo, Attorney-in-Fact, and Declaring Fiduciary has Violated or is Unfit to Perform the Fiduciary Duties Under Power of Attorney; Revocation of Current Power of Attorney Because of Incapacity of Principal and Invalid Notarization and for Attorney Fees and Costs (Prob. C. 4541, 4545)**

Age: 53 years		<p><b>KATRINA LEAL, daughter, and JASON HERMOSILLO, son, are Petitioners.</b></p> <p><b>Petitioners state:</b></p> <ul style="list-style-type: none"> <li><b>ARTHUR HERMOSILLO</b>, Principal under a <i>General Durable Power of Attorney for Healthcare and Finance</i> executed <u>1/4/2011</u> naming his daughter, <b>JESSICA HERMOSILLO</b>, as attorney-in-fact, is currently separated from his wife, <b>SANDIE HERMOSILLO</b>, and he resides with Jessica after filing for divorce based upon lies by Jessica alleging Sandie was attempting to steal all of the community property for herself;</li> <li>Arthur executed a previous <i>Durable Power of Attorney</i> on <u>8/6/2006</u>, after he and Sandie's separation in the summer of 2005, which named Sandie as attorney-in-fact, giving Sandie full power to receive, disburse, manage and control all of Arthur's property; neither Sandie's nor Jessica's <i>Power of Attorney</i> eliminate Petitioners' rights to bring this <i>Petition</i>;</li> <li>At the advice of an attorney and for the benefit of Arthur's and Sandie's children, Sandie as Trustee transferred all community property into the <b>HERMOSILLO FAMILY TRUST</b>, naming all three children as beneficiaries, to avoid probate and because of the circumstances of Arthur's erratic behavior;</li> <li>Following Arthur's strokes in 2006 and 2007, Sandie moved into Arthur's residence and took care of Arthur and his finances as agreed upon by him; Sandie hired a caregiver from 8 am to 5 pm six days a week while Sandie handled all financial matters;</li> <li>At a family meeting it was agreed that Jessica would take Arthur into her home to care for him and would be paid <b>\$350.00</b> per month for rent, which was raised to <b>\$600.00</b> upon Jessica's request and family agreement; Jessica continued to ask for more money to care for Arthur and to pay for her <b>\$6,000.00</b> school loan;</li> <li>Jessica began to have financial problems in October 2010, which coincides with her refusal to bring Arthur to family functions and her isolation of him from the family;</li> </ul> <p><i>~Please see additional page~</i></p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>Note: Attorney Nancy LeVan filed on 10/24/2011 a Notice of Unavailability stating she will be unavailable from 10/25/2011 through 11/8/2011.</b></p> <p><b>Please refer to related case on Page 8.</b></p> <p><b>Page 12B is Arthur Hermosillo's Motion to Consolidate Proceedings. Page 12C is Jessica Hermosillo's Motion to Strike Portions of Petition to Compel.</b></p> <p><b>Note: Minute Order dated 10/3/2011 from the hearing on the Petition for Appointment of Probate Conservator set the matter for Settlement Conference on 11/15/2011, and for Court Trial on 2/14/2012.</b></p> <p><b>Reviewed by: LEG</b></p> <p><b>Reviewed on: 11/1/11</b></p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 12A - Hermosillo</b></p>	
DOB: 1-1-1958				
Cont. from				
	Aff.Sub.Wit.			
✓	Verified			
	Inventory			
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	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			

**Petitioners state, continued:**

- In December 2010, Jessica demanded more money for the care of Arthur, and following Sandie's refusal Jessica began acting strangely by sending the care provider away from the home and leaving the house when the caretaker or family members would visit Arthur;
- Arthur was diagnosed with a brain bleed on 1/7/2011 following an MRI and was immediately taken to the emergency room; Sandie brought her Power of Attorney for Health Care but could not get any information because Arthur signed a Revocation of Power of Attorney and a new Power of Attorney for Health Care and Finance naming Jessica as agent; Arthur signed these documents while suffering a brain bleed and he was not competent to sign any legal document;
- On 1/28/2011, Jessica took Arthur to Wells Fargo Bank and withdrew **\$82,000.00** from a home line of equity which was tied to a joint account belonging to Arthur and Sandie; Jessica had no authority to do this from Sandie nor justification for her actions; Jessica stated she and Arthur were going to make payments but not payments have been made and Arthur only gets **\$1,205.00** from Social Security, and Jessica makes a \$1,200.00 per month withdrawal, leaving nothing left to make a payment on the home equity line of credit;
- Per the 3/29/2011 Court order, Attorney Marcus Magness provided Petitioners with a list of deposits and withdrawals Jessica made from Arthur's account; however, the list did not include reasons for hundreds of dollars in withdrawals and does not address what happened to the **\$3,000.00** cash given to Jessica when she took Arthur to Wells Fargo;
- Petitioners request the Jessica provide a full accounting pursuant to Probate Code §§ 4540 and 4541(c), following the formed of accountings in estate and conservatorship matters; the receipts provided along with the informal accounting does not total the amounts withdrawn or spent;
- Petitioners also request the revocation of the Durable Power of Attorney naming Jessica as agent under Probate Code § 4541(d)(1), as the notary used for both the revocation and the power of attorney is **ELIZABETH ROUSE**, who was hired as Arthur's caregiver on 3/25/2011 and is also Jessica's landlord, and would have a financial interest in the document she notarized; Government Code § 8224 provides "a notary public who has a direct financial or beneficial interest in a transaction shall not perform any notarial act in connection with such transaction" and the documents allow Ms. Rouse beneficial interests for payment of rent and payment as caregiver;
- Jessica has violated her fiduciary duty to Arthur by obtaining a loan without a plan to repay, spending the money for her own benefit, attempting to justify fees paid to caregivers by preparing and submitting false receipts, and used her friendship with Ms. Rouse to have documents notarized that put Jessica in charge of Arthur's finances;
- Jessica is unfit to fulfill the office of power of attorney because she currently has three pending judgments against her for breach of contract for failure to pay attorney fees in other matters; she has been reported to the Welfare Fraud Division for falsely receiving benefits for her children that do not reside full time with Jessica and she has fraudulently received over **\$4,000.00** from welfare; Jessica and her husband Joe previously took out a **\$30,000.00** line of credit on a house purchased by Arthur and Sandie, which was taken in 2002 and Sandie did not learn about until 2003;
- Arthur did not have capacity when he executed the Revocation of Power of Attorney and signed the new Power of Attorney naming Jessica, and under Probate Code § 4541(d)(2), the Court can make this determination.

**Petitioners pray that the Court order:**

1. Jessica Hermosillo must provide a complete accounting from the period when she was attorney-in-fact from 1/4/2010 until 6/27/2011;
2. The current Durable Power of Attorney naming Jessica Hermosillo as attorney-in-fact is void because of the lack of capacity of Arthur to sign legal documents on the day they were executed and were notarized by a financially interested party;
3. That Jessica Hermosillo breached her fiduciary duty to Arthur and should be held liable for twice the amount of loss the estate has suffered.

Atty LeVan, Nancy J., sole practitioner (for Katrina Leal, daughter, and Jason Hermosillo, son)  
 Atty Magness, Marcus, of Gilmore Wood Vinnard & Magness (for Arthur Hermosillo, proposed Conservatee, and for Jessica Hermosillo, daughter)  
 Atty Kruthers, Heather H., of County Counsel (for Public Guardian, *former* Temporary Conservator)

## Notice of Motion and Motion of Arthur Hermosillo to Consolidate Proceedings

Age: 53 years		<p><b>ARTHUR HERMOSILLO</b> moves the Court pursuant to Code of Civil Procedure § 1048(a) and CA Rule of Court 3.350 for an order granting consolidation of Case No. 11CEPR00214 with Case No. 11CEPR00777, on the following grounds:</p> <ul style="list-style-type: none"> <li>The two cases involve common questions of law and fact; Petitioners <b>KATRINA LEAL</b> and <b>JASON HERMOSILLO</b> allege their father, Arthur Hermosillo, is incapacitated and their sister, <b>JESSICA HERMOSILLO</b>, with whom Arthur resides and who serves as his attorney-in-fact, is taking advantage of Arthur and diverting her funds to her own uses; to allow both cases to proceed separately would result in Arthur incurring duplicative costs and attorneys' fees in conducting discovery, retention of expert witnesses, and trial;</li> <li>Judicial economy will be served by consolidation; issues present in both cases include whether Arthur has capacity, whether Jessica breached her fiduciary duty under the <i>Durable Power of Attorney</i>, and whether Arthur requires the appointment of a conservator; percipient witnesses will be the same, the same experts will testify at trial in both actions, and the evidence presented will be substantially the same; and</li> <li>No other party to either action will be prejudiced by consolidation.</li> </ul> <p><b>Movant states:</b></p> <ul style="list-style-type: none"> <li>Petitioners <b>KATRINA LEAL</b> and <b>JASON HERMOSILLO</b> are represented by Nancy J. LeVan in both case numbers;</li> <li><b>ARTHUR HERMOSILLO</b>, who has appeared in Case No. 11CEPR0021, is represented by the law firm of Gilmore, Wood, Vinnard &amp; Magness;</li> <li>Concurrently with this <i>Motion</i>, <b>JESSICA HERMOSILLO</b> is filing a <i>Motion to Strike</i> in Case No. 11CEPR00777, which is her first appearance in that case, and she is represented by the law firm of Gilmore, Wood, Vinnard &amp; Magness;</li> <li>This <i>Motion</i> is based on the <i>Notice of Motion</i>, the <i>Memorandum of Points and Authorities</i>, the <i>Declaration of Marcus D. Magness</i>, all of the pleadings, files and records in this proceeding, all other matters of which the Court may take judicial notice, and any argument or evidence that may be presented to or considered by the Court.</li> </ul>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p>Page 12C is Jessica Hermosillo's <i>Motion to Strike Portions of Petition to Compel</i>.</p>
DOB: 1-1-1958			
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	FTB Notice		
			<p><b>Reviewed by:</b> LEG</p> <p><b>Reviewed on:</b> 11/1/11</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 12B - Hermosillo</b></p>

Atty LeVan, Nancy J., sole practitioner (for Katrina Leal, daughter, and Jason Hermosillo, son)  
 Atty Magness, Marcus, of Gilmore Wood Vinnard & Magness (for Arthur Hermosillo, proposed Conservatee, and for Jessica Hermosillo, daughter)  
 Atty Kruthers, Heather H., of County Counsel (for Public Guardian, *former* Temporary Conservator)

**Respondent Jessica Hermosillo's Notice of and Motion to Strike Portions of  
 Petition to Compel Formal Accounting, etc.; Memorandum of Points and  
 Authorities in Support Thereof**

Age: 53 years			<p><b>JESSICA HERMOSILLO</b> (Respondent) moves the Court pursuant to Code of Civil Procedure § 436 for an order granting her <i>Motion to Strike</i> the following portions from the <i>Petition to Compel Formal Accounting from Jessica Hermosillo</i>:</p> <ul style="list-style-type: none"> <li>• Portion of <i>Petition</i> requesting that Jessica provide a full accounting pursuant to Probate Code § 4540 and 4541(c) following the format of accountings required in estate and conservatorship matters; and</li> <li>• Portion of <i>Petition</i> requesting a complete accounting from Jessica for the period she was attorney-in-fact for Arthur from 1/4/2010 until 6/27/2010.</li> </ul> <p><b>Movant states Petitioners are not entitled to receive a formal accounting from Respondent for the following reasons:</b></p> <ol style="list-style-type: none"> <li>1. Petitioners have failed to comply with Probate Code § 4541(c) as they have not and cannot allege that they made a written request to Respondent to submit an accounting and the Respondent failed to comply with such written request within 60 days from date of the request;</li> <li>2. There has been no finding by the Court that Petitioners are parties entitled to a formal accounting; even assuming Petitioners have standing to bring this Petition, the only party who is entitled to a formal accounting is the Public Guardian, Arthur's Temporary Conservator;</li> <li>3. Petitioners have failed to show good cause for this Petition, as Respondent has submitted two timely informal accountings to the Public Guardian, who has found them satisfactory; as such, Petitioners' request is not reasonably necessary for the protection of Arthur or his estate.</li> </ol> <p>This <i>Motion</i> is based on the <i>Notice of Motion</i>, the <i>Memorandum of Points and Authorities</i>, the <i>Declaration of Marcus D. Magness</i>, all of the records, pleadings, and papers on file with the Court, and upon such further oral and documentary evidence which may be presented at the hearing.</p> <p align="center"><i>~Please see additional page~</i></p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p>
DOB: 1-1-1958				
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	Inventory			
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	Not.Cred.			
	Notice of Hrg			
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	Letters			
	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			
			<p><b>Reviewed by:</b> LEG</p> <p><b>Reviewed on:</b> 11/1/11</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 12C - Hermosillo</b></p>	

12C

***Memorandum of Points and Authorities [sans citations] attached to the Motion to Strike states:***

- Petitioners are requesting the Court appoint them as conservators of Arthur Hermosillo's person and estate [in Case No. 11CEPR00214], and the evidence demonstrates that the purpose behind these related proceedings is not to protect Arthur or his estate, but is instead a blatant attempt to prevent Arthur from divorcing Sandie Hermosillo and retaining control of his ½ of the community property assets;
- Since Petitioners have so far been unsuccessful in being appointed conservators, they are now resorting to vicious and unfounded personal attacks against Respondent to challenge the Durable Power of Attorney naming her as Arthur's attorney-in-fact;
- Petitioners' request for an accounting is simply a ruse to divert the Court's attention from the fact that Sandie Hermosillo is continuing to steal Arthur's ½ of the community property assets, consisting of 18 residential properties earning ~\$20,000.00 in rental income each month, while Arthur is forced to live on his \$1,205.00 monthly Social Security check and Respondent's financial assistance;
- Petitioners did not file any objections to Respondent's two information accountings before they filed the instant *Petition*, and they never asked for additional information or explanation; Petitioners filed an *Objection to Accounting* on 9/26/2011 in the conservatorship proceedings 5 months after the information accountings were voluntarily provided;
- The Public Guardian has requested and been provided with all backup documents and explanation, and Public Guardian submitted to this Court under penalty of perjury that it found no wrongdoing;
- Petitioners' request for an accounting fails to comply with the requirements of Probate Code § 4541(c) and was brought in bad faith, and as such, the request to compel a formal accounting should be stricken from the *Petition*;
- Respondent is entitled to her attorney's fees incurred in filing this *Motion* since the *Petition* was filed without any reasonable cause.

***Request for Judicial Notice in Support of Respondent Jessica Hermosillo's Motion to Strike Portions of Petition to Compel Formal Accounting, etc., filed on 10/13/2011 requests the Court take judicial notice pursuant to Evidence Code § 452 of the following document:***

- *Declaration of Deputy Public Guardian Renee Garcia-Widjaja Regarding Conservatee's Finances* [filed on 8/11/2011] (copy attached as Exhibit A).

Atty Bagdasarian, Gary G. (for Ramon Duque, Jr. – son/Petitioner)

Petition for Letters of Administration; Authorization to Administer Under IAEA  
(Prob. C. 8002, 10450)

DOD: 06/24/11		<b>RAMON DUQUE</b> , son, is Petitioner and requests appointment as Executor, without bond.	<b>NEEDS/PROBLEMS/COMMENTS:</b>  1. Need waivers of bond from - Rodney Wells Duque - Mario Duque, Jr. 2. Petition states that the decedent had a predeceased spouse. Pursuant to Local Rule 7.1.1D - If a beneficiary, heir, child, spouse, or registered domestic partner in any action before the Probate Court is deceased, that person's date of death shall be included in the petition. 3. Petition states that the decedent had two wills, both dated 10/31/90, but alleges that neither is a valid Will, in that one Will has no distribution clause and the other distributes the entire estate to the decedent's predeceased spouse. The Petitioner therefore proposes to administer the estate as an intestate estate.
Cont. from		Full IAEA – ok	
	Aff.Sub.Wit.		
✓	Verified	Decedent died intestate	
	Inventory		
	PTC	Residence: Fresno	
	Not.Cred.	Publication: The Business Journal	
✓	Notice of Hrg		
✓	Aff.Mail	w/	
✓	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
✓	Letters		
✓	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
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✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
			Reviewed by: JF Reviewed on: 10/31/11 Updates: Recommendation: File 13 - Duque

14

Atty Dowling, Michael P. (for Alex Essington Justice aka A.E. Justice – Petitioner)

## Petition for Probate of Will and for Letters Testamentary; Authorization to Administer Under IAEA (Prob. C. 8002, 10450)spouse/

DOD: 04/06/11		<b>ALEX ESSINGTON JUSTICE</b> aka <b>A.E. JUSTICE</b> , spouse, is Petitioner.		<b>NEEDS/PROBLEMS/COMMENTS:</b>	
		Full IAEA – ok		1. The 1982 Will refers to Alvin Essington Justice, need confirmation that Alvin Essington Justice is the same person as Alex Essington Justice (petitioner).	
Cont. from		Will dated 08/13/82 names Alvin Essington Justice as Executor without bond.		2. If the lost will is proved, a copy of the lost will must be attached to the order pursuant to Probate Code § 8223.	
	Aff.Sub.Wit.				
✓	Verified				
	Inventory				
	PTC				
	Not.Cred.				
✓	Notice of Hrg			<b>Note:</b> An unsigned/conformed copy of the 1982 Will is attached to the Petition, and a draft of the 1985 Will is also attached.	
✓	Aff.Mail	w/			
✓	Aff.Pub.				
	Sp.Ntc.				
	Pers.Serv.				
	Conf. Screen				
✓	Letters				
✓	Duties/Supp				
	Objections				
	Video Receipt				
	CI Report				
	9202				
✓	Order				
	Aff. Posting				
	Status Rpt				
	UCCJEA				
	Citation				
	FTB Notice				
		Petitioner states that the original Will dated 08/13/82 is lost. A copy of the Will is attached to the petition. Petitioner states that he has no reason to believe the Petitioner ever revoked the Will. Petitioner states that the decedent and her husband contacted the same law firm that drafted the 1982 Will and had new Wills drafted in 1985. The law firm states that they lost contact with petitioner and the decedent and have no knowledge that the new 1985 Wills were ever executed.			
		Residence: Tollhouse Publication: The Business Journal			
		<b>Estimated Value of the Estate</b>			
		Personal property - \$170,000.00			
		Annual income - 2,500.00			
		<b>Total - \$172,500.00</b>			
		Probate Referee: <b>RICK SMITH</b>			
				Reviewed by: JF	
				Reviewed on: 11/01/11	
				Updates:	
				Recommendation:	
				File 15 - Justice	

			<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><b><u>OFF CALENDAR.</u></b> Petition for Final Distribution filed and set for hearing on 11/28/11.</p>
Cont. from			
	Aff.Sub.Wit.		
	Verified		
	Inventory		
	PTC		
	Not.Cred.		
	Notice of Hrg		
	Aff.Mail		
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
			Reviewed by: KT
			Reviewed on: 11/1/11
			Updates:
			Recommendation:
			File 16 - Singh

**Probate Status Hearing Re: Possible Termination of Conservatorship as not Being the Least Restrictive Alternative**

<b>Age: 64</b>		<b>ANTONIO MONREAL</b> , Brother, was appointed Conservator of the Person with medical consent powers and Letters issued on 9-19-84.  Court Investigator Dina Calvillo filed a report on 9-29-11 and set this status hearing. Notice of Status hearing was mailed to all interested parties on 9-20-11.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
<b>DOB: 12-31-46</b>			
<b>Aff.Sub.Wit.</b>			
<b>Verified</b>			
<b>Inventory</b>			
<b>PTC</b>			
<b>Not.Cred.</b>			
<b>Notice of Hrg</b>			
<b>Aff.Mail</b>			
<b>Aff.Pub.</b>			
<b>Sp.Ntc.</b>			
<b>Pers.Serv.</b>			
<b>Conf. Screen</b>			
<b>Letters</b>			
<b>Duties/Supp</b>			
<b>Objections</b>			
<b>Video Receipt</b>			
<b>CI Report</b>			
<b>9202</b>			
<b>Order</b>			
<b>Aff. Posting</b>			
<b>Status Rpt</b>			
<b>UCCJEA</b>			
<b>Citation</b>			
<b>FTB Notice</b>			
		<b>Reviewed by:</b> skc	
		<b>Reviewed on:</b> 11-1-11	
		<b>Updates:</b>	
		<b>Recommendation:</b>	
		<b>File 17 - Monreal</b>	

**Order to Show Cause Re: Failure to File a First Account or Petition for Final Distribution (Probate Code 12200, et seq)**

<b>DOD: 6/25/09</b>		<p><b>KEVIN JOHNSON</b>, son, was appointed Administrator without Bond with Limited IAEA Authority on 5/20/2010 and <i>Letters</i> issued on that date.</p> <p><i>Final Inventory and Appraisal</i> filed on 7/14/2010 shows an estate value of <b>\$45,000.00</b> consisting of real property.</p> <p><i>Notice of Status Hearing</i> filed on 7/7/2011 set a status hearing for failure to file a first account or petition for final distribution. <i>Clerk's Certificate of Mailing</i> shows notice of this status hearing was mailed on 7/7/2011 to Kevin Johnson.</p> <p>At the hearing on 8/15/11 there were no appearances and the Court issued this Order to Show Cause and ordered Kevin Johnson to be present in court on 9/26/11. <i>Clerk's Certificate of Mailing</i> shows notice of this Order to Show Cause hearing was mailed on 8/19/11 to Kevin Johnson.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p>Minute order dated 9/26/11 states the Court directs the court investigator to secure a better address for Kevin Johnson. Copy of the minute order was mailed to a new address for Kevin Johnson on 10/7/11.</p> <p><b>Note: Substitution of Attorney</b> filed 3/14/2011 shows Attorney Joanne Sanoian formerly represented Kevin Johnson, who is now self-represented.</p>
<b>Cont. from 092611</b>			
<b>Aff.Sub.Wit.</b>			
<b>Verified</b>			
<b>Inventory</b>			
<b>PTC</b>			
<b>Not.Cred.</b>			
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<b>Aff.Mail</b>			
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<b>Pers.Serv.</b>			
<b>Conf. Screen</b>			
<b>Letters</b>			
<b>Duties/Supp</b>			
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<b>CI Report</b>			
<b>9202</b>			
<b>Order</b>			
<b>Aff. Posting</b>			
<b>Status Rpt</b>			
<b>UCCJEA</b>			
<b>Citation</b>			
<b>FTB Notice</b>			
		<p><b>Reviewed by: KT</b></p> <p><b>Reviewed on: 10/31/11</b></p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 18 - McCray</b></p>	

<b>CONFIDENTIAL</b>			<b>NEEDS/PROBLEMS/COMMENTS:</b>				
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<input type="checkbox"/>	Verified	<input type="checkbox"/>					
<input type="checkbox"/>	Inventory	<input type="checkbox"/>					
<input type="checkbox"/>	PTC	<input type="checkbox"/>					
<input type="checkbox"/>	Not.Cred.	<input type="checkbox"/>					
<input type="checkbox"/>	Notice of Hrg	<input type="checkbox"/>					
<input type="checkbox"/>	Aff.Mail	<input type="checkbox"/>					
<input type="checkbox"/>	Aff.Pub.	<input type="checkbox"/>					
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<input type="checkbox"/>	Duties/Supp	<input type="checkbox"/>					
<input type="checkbox"/>	Objections	<input type="checkbox"/>					
<input type="checkbox"/>	Video Receipt	<input type="checkbox"/>	<b>Reviewed by:</b> skc <b>Reviewed on:</b> 11-1-11 <b>Updates:</b> <b>Recommendation:</b> <b>File 19 - Acosta</b>				
<input type="checkbox"/>	CI Report	<input type="checkbox"/>					
<input type="checkbox"/>	9202	<input type="checkbox"/>					
<input type="checkbox"/>	Order	<input type="checkbox"/>					
<input type="checkbox"/>	Aff. Posting	<input type="checkbox"/>					
<input type="checkbox"/>	Status Rpt	<input type="checkbox"/>					
<input type="checkbox"/>	UCCJEA	<input type="checkbox"/>					
<input type="checkbox"/>	Citation	<input type="checkbox"/>					
<input type="checkbox"/>	FTB Notice	<input type="checkbox"/>					

Age: 3 months		<b>NO TEMPORARY – none requested</b>  <b>MARCELLA LUPE NAVARRO</b> , family friend, is Petitioner.  Father: Unknown Mother: <b>MICHELLE ELISE LOPEZ</b> <i>- Nomination, Consent and Waiver of Notice filed 8-8-11</i>  Paternal grandfather: Unknown Paternal grandmother: Unknown  Maternal grandfather: Gilbert Lopez <i>- Served by mail on 9-6-11</i> Maternal grandmother: Linda Lopez <i>- Nomination, Consent and Waiver of Notice filed 8-8-11</i> <i>- Served by mail on 9-6-11</i>  <b>Petitioner states</b> CPS brought the child to her four days after she was born to look after. Petitioner states Mother wants her to raise the child as her own, and Petitioner has consented. Mother is currently incarcerated at Fresno County Jail and has no prospect of taking care of Estrella, nor does she want to. CPS has dropped out of the matter and closed their file. They are aware that Estrella is going to be well taken care of in Petitioner's family and advised her to file guardianship. Petition is the sole care provider for Estrella and will devote all her love and attention to raising her properly.  <b>DSS and Court Investigator Dina Calvillo to provide report, clearances.</b>	<b>NEEDS/PROBLEMS/COMMENTS:</b>  Continued from 10-3-11. As of 10-31-11, nothing further has been filed. The following issue remains:  1. Petitioner states the father and paternal grandparents are unknown, but does not indicate any efforts to identify or locate.  If notice is not excused, need proof of service pursuant to Probate Code §1511 or consent and waiver of notice or declarations of due diligence on: - Father (personal service) - Paternal grandfather - Paternal grandmother	
DOB: 6-13-11				
Cont. from 100311				
	Aff.Sub.Wit.			
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
✓	Notice of Hrg			
✓	Aff.Mail			W
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			X
✓	Conf. Screen			
✓	Letters			
✓	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			X
	Clearances	X		
✓	Order			
	Aff. Posting			
	Status Rpt			
✓	UCCJEA			
	Citation			
	FTB Notice			

Reviewed by: skc
Reviewed on: 10-31-11
Updates:
Recommendation:
File 20 - Lopez

Atty Johnson, Laganda (pro per Petitioner/maternal grandmother)

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Zahden age: 3 years DOB: 8/14/08		<p><b>THERE IS NO TEMPORARY.</b> No temporary was requested.</p> <p><b>LAGANDA JOHNSON</b>, maternal grandmother, is petitioner.</p> <p>Zahden's father: <b>JESUS GARCIA</b> – <i>declaration of due diligence filed on 9/8/11.</i></p> <p>Tamia's father: <b>FREDDIE CRAWFORD</b></p> <p>Mother: <b>SHANISHA AKINS</b></p> <p>Zahden's paternal grandparents: Unknown – <i>declaration of due diligence filed on 9/8/11.</i></p> <p>Tamia's paternal grandfather: Unknown - <i>declaration of due diligence filed on 9/8/11.</i></p> <p>Tamia's paternal grandmother: Ana Garcia</p> <p>Maternal grandfather: Steven Akins - <i>declaration of due diligence filed on 9/8/11.</i></p> <p>Petitioner states mom is not taking care of the children. She has been roaming around from place to place. She has left them with Petitioner and others for days at a time. This time Petitioner states she has had the children for over 2 months.</p> <p><b>Court Investigator Dina Calvillo's Report filed on 10/27/11.</b></p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <ol style="list-style-type: none"> <li>1. Need <i>Notice of Hearing</i>.</li> <li>2. Need proof of personal service of the Notice of Hearing along with a copy of the Petition for Appointment of Guardian or consent and waiver of notice or declaration of due diligence on: <ul style="list-style-type: none"> <li>a. Freddie Crawford (Tamia's father)</li> <li>b. Shanisha Akins (mother)</li> <li>c. Jesus Garcia (Zahden's father)-if court does not dispense with notice.</li> </ul> </li> <li>3. Need proof of service of the Notice of Hearing along with a copy of the Petition for Appointment of Guardian or consent and waiver of notice or declaration of due diligence on: <ul style="list-style-type: none"> <li>a. Ana Garcia (Tamia's paternal grandmother)</li> <li>b. Zahden's paternal grandparents -if court does not dispense with notice.</li> <li>c. Tamia's paternal grandfather -if court does not dispense with notice.</li> <li>d. Steven Akins (maternal grandfather) -if court does not dispense with notice</li> </ul> </li> <li>4. Need Confidential Guardian Screening form.</li> </ol>
Tamia age: 2 years DOB: 11/4/09			
Cont. from			
Aff.Sub.Wit.			
✓ Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg	X		
Aff.Mail	X		
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.	X		
Conf. Screen	X		
✓ Letters			
✓ Duties/Supp			
Objections			
Video Receipt			
✓ CI Report			
9202			
✓ Order			
Aff. Posting			
Status Rpt			
✓ UCCJEA			
Citation			
FTB Notice			

Reviewed by: KT
Reviewed on: 11/1/11
Updates:
Recommendation:
File 21 – Bradshaw & Crawford

**22      Alexandra Regalado, Armando Regalado, Ezekiel Regalado, Justin Sanchez and Benjamin Gonzales (GUARD/P)**

**Case No. 11CEPR00960**

**Atty      Gonzales, Sandra (pro per Paternal grandmother)**

**Atty      Sanchez, Yvonne E. (pro per Petition/maternal grandmother)**

**Petition for Appointment of Temporary Guardianship of the Person (Prob. C. 2250)**

Alexandra age: 8 years DOB: 3/6/03		<p align="center"><b>GENERAL HEARING 1/3/2012</b></p> <p><b>YVONNE SANCHEZ</b>, maternal grandmother, is petitioner.</p> <p>Alexandrea, Armando &amp; Ezekiel's father: <b>ARMANDO REGALADO</b></p> <p>Justin's father: <b>FERNANDO ZAPATA</b> – <i>declaration of due diligence filed on 10/25/11</i></p> <p>Benjamin's Father: <b>SERGIO GONZALES</b> – <i>personally served on 10/25/11.</i></p> <p>Mother: <b>AMBREA SANCHEZ</b> – <i>consents and waives notice.</i></p> <p>Alexandrea, Armando &amp; Ezekiel's paternal grandfather: unknown</p> <p>Alexandrea, Armando &amp; Ezekiel's paternal grandmother: Gracie Regalado</p> <p>Justin's paternal grandfather: unknown</p> <p>Justin's paternal grandmother: unknown</p> <p>Benjamin's paternal grandfather: unknown</p> <p>Benjamin's paternal grandmother: Sandra Gonzales</p> <p>Maternal grandparents: not listed.</p> <p><b>Petitioner states</b> both parents are absent. Mother is in a drug program. Father of Alexandra, Armando &amp; Ezekiel is in prison. Justin's father is a gang member with whereabouts unknown and Benjamin's father is not to be near his child because of drug use.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p>Competing petition temporary guardianship of <u>Benjamin only</u> filed by the paternal grandmother, Sandra Gonzales is set for hearing on 11/8/11.</p> <ol style="list-style-type: none"> <li>1. Need <i>Notice of Hearing</i>.</li> <li>2. Need proof of personal service of the <i>Notice of Hearing</i> along with a copy of the <i>Petition for Appointment of Temporary Guardian, or Consent and Waiver of Notice or Declaration of Due Diligence</i> on:             <ol style="list-style-type: none"> <li>a. <b>Armando Regalado</b> (Alexandrea, Armando and Ezekiel's father) – <i>Served by mail on 10/26/11. Probate Code §2250(e)(1) requires personal service.</i></li> <li>b. <b>Fernando Zapata</b> (Justin's father) <i>if court does not dispense with notice.</i></li> </ol> </li> </ol>	
Armando age 7 years DOB: 3/7/04				
Ezekiel age: 1 year DOB: 11/17/10				
Justin age: 5 years DOB: 11/6/06				
Benjamin age: 1 month DOB: 10/3/11				
Cont. from				
	Aff.Sub.Wit.			
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
	Notice of Hrg			X
	Aff.Mail			X
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			
✓	Conf. Screen			
✓	Letters			
✓	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
✓	9202			
	Order			
	Aff. Posting			
	Status Rpt			
✓	UCCJEA			
	Citation			
	FTB Notice			

Atty Tucker, Eugene (Pro Per – Co-Executor)

Atty Tucker, James (Pro Per – Co-Executor)

Atty Amey, Dorothy (Pro Per – Co-Executor)

## Order to Show Cause Re: Failure to File a First Account or Petition for Final Distribution

DOD: 12-13-04		<p><b>EUGENE TUCKER, JAMES TUCKER, and DOROTHY AMEY</b> were appointed Co-Executors with Full IAEA and bond of \$150,000.00 on 9-5-06. Bond was filed and Letter issued on 9-29-06.</p> <p><b>Decedent's will dated 1-22-02</b> devises her residence, or the proceeds from the sale of the residence, to "all of my surviving heirs."</p> <p><b>Final Inventory and Appraisal</b> filed 8-11-08 reflects real property at 1004 E. Samson in Fresno valued at \$95,000.00 (at 12-13-04).</p> <p><b>A petition for final distribution</b> was heard on 2-9-09, 2-24-09, 3-17-09, and 4-21-09. The matter was continued due to various defects and ultimately <u>denied on 4-21-09.</u></p> <p><b>The minute order from 3-17-09</b> states Attorney William Hess appeared and was informed that the creditor's claims, attorney's fee and costs must be paid before the estate will distribute.</p> <p><b>Nothing further was filed</b>, and <u>the petition was denied at the next hearing on 4-21-09.</u></p> <p><b>On 6-3-11</b>, the court set a status hearing on 7-25-11 for failure to file an amended petition for final distribution.</p> <p><b>On 6-24-11</b>, Attorney Sandra Smith filed a Notification of Disqualification to Act as Attorney.</p> <p><b>On 7-25-11</b>, the Court advised the parties that another petition needs to be prepared and set the matter for status on 10-3-11. However, on 10-3-11, there were no appearances and the Court set this Order to Show Cause and ordered the Co-Executors to be personally present. The minute order was mailed to each of the Co-Executors on 10-7-11.</p> <p><b>As of 11-1-11</b>, nothing further has been filed.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><u><b>Note: Co-Executors were formerly represented by Attorney Sandra Smith, who is no longer eligible to practice law.</b></u></p> <p>1. The Court may consider removal from office pursuant to Probate Code §12204 or reduction in compensation or other surcharge unless an amended petition for final distribution or current status report is filed. Specifically, what is the status of the house? Has it been sold? Rented? Vacant? Have the creditor's claims been paid?</p> <p><u><b>Note:</b></u> The only asset of the estate is a house on Samson (South Fig/North Ave). The will devises the house to "all of my surviving heirs." Decedent had 14 children, one of whom predeceased the Decedent. The petition proposed to distribute the property to the 13 living children (adults), and <u>after distribution</u>, the heirs would refinance the property to pay the two outstanding creditor's claims (totaling \$2,235.93) and costs of administration, etc.)</p> <p><u><b>However</b></u>, claims and expenses of administration must be paid <u>prior</u> to distribution.</p> <p><u>In addition</u>, it appears that one heir, Lois Williams, did not consent to distribution in undivided interest with the other heirs per Local Rule 7.12.4.</p> <p><u><b>Note:</b></u> If the Co-Executors are removed, a copy of the minute order must be mailed to the surety pursuant to Probate Code §1213.</p> <p><u><b>Note:</b></u> A copy of these Examiner Notes has been sent to County Counsel for the Public Administrator.</p>
Aff.Sub.Wit.			
Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg			
Aff.Mail			
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order			
Aff. Posting			
Status Rpt	X		
UCCJEA			
Citation			
FTB Notice			
		<p><b>Reviewed by:</b> skc</p> <p><b>Reviewed on:</b> 11-1-11</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 23 - Tucker</b></p>	